

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION**

BLUE SPIKE, LLC,

*Plaintiff,*

V.

AUDIBLE MAGIC CORPORATION,

*Defendant.*

AUDIBLE MAGIC CORPORATION,

*Counterclaim Plaintiff*

V.

BLUE SPIKE, LLC, BLUE SPIKE, INC.  
and SCOTT A. MOSKOWITZ

*Counterclaim Defendants.*

Case No. 6:15-cv-584-MHS

## Jury Trial Demanded

**DECLARATION OF GABRIEL RAMSEY IN SUPPORT OF  
AUDIBLE MAGIC’S MOTION FOR JUDGMENT ON THE PLEADINGS  
PURSUANT TO FED. R. CIV. P. 12(c)**

I, Gabriel Ramsey, declare under penalty of perjury that the following is true and correct:

1. I am a partner at the law firm Orrick, Herrington & Sutcliffe, LLP (“Orrick”), counsel of record for defendants Audible Magic Corp. (“Audible Magic”) and a number of its customers accused as defendants in this case on the basis of Audible Magic’s technology. I have personal knowledge of the facts set forth in this declaration, or access to information and records allowing me to confirm these facts. If called as a witness, I could testify competently to these facts under oath.

2. Plaintiff Blue Spike, LLC (“Blue Spike”) filed its first patent infringement action on August 9, 2012, captioned Blue Spike, LLC v. Texas Instruments, Inc., Case No. 6:12-cv-499 (E.D. Tex.). Since then, Blue Spike has filed more than one hundred separate patent infringement actions asserting one or more of U.S. Patent No. 7,346,472 (“’472 patent”); U.S.

Patent No. 7,660,700 (“’700 patent”); U.S. Patent No. 7,949,494 (“’494 patent”); and U.S. Patent No. 8,214,175 (“’175 patent”) (collectively, the “Patents-in-Suit”). According to the case dockets, Blue Spike has voluntarily dismissed or settled at least eighty of those cases.

3. Attached hereto as Exhibit 1 is a true and correct copy (as obtained from website of the Secretary of State of Texas) of the Articles of Organization of Blue Spike LLC.

4. Attached hereto as Exhibit 2 is a true and correct copy of the Patent Assignment Details for the Asserted Patents that was recorded on August 5, 2012 (as the Details appeared on the Patent and Trademark Office’s website).

5. On February 26, 2014, Blue Spike served its Preliminary Infringement Contentions and on April 4, 2014, Blue Spike served a Preliminary Election of Asserted Claims regarding Audible Magic and its customers, asserting the following claims: claims 1, 3-4, 8, 11 of U.S. Patent No. 7,346,472 (“’472 patent”); claims 1, 6-8, 10-11, 40, 49-51 of U.S. Patent No. 7,660,700 (“’700 patent”); claims 1, 4-5, 11, 17-18, 20-22, 29 of U.S. Patent No. 7,949,494 (“’494 patent”) and claims 8, 11-13, 15-17 of U.S. Patent No. 8,214,175 (“’175 patent”).

6. Attached hereto as Exhibit 3 is a true and correct copy of the ’472 patent.

7. Attached hereto as Exhibit 4 is a true and correct copy of the ’700 patent.

8. Attached hereto as Exhibit 5 is a true and correct copy of the ’494 patent.

9. Attached hereto as Exhibit 6 is a true and correct copy of the ’175 patent.

I declare under penalty of perjury under the laws of the United States of America that the foregoing facts are true and correct based on my own personal knowledge.

Executed on June 30, 2016 in San Francisco, California.



---

Gabriel Ramsey